

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF PENNSYLVANIA

IN RE: . Case No. 22-20823-GLT
. .
. .
U LOCK INC, . 5414 U.S. Steel Tower
. 600 Grant Street
. Pittsburgh, PA 15219
Debtor. .
. April 13, 2023
. 1:30 p.m.

TRANSCRIPT OF #294 CONTINUED ORDER TO SHOW CAUSE SIGNED
ON 1/17/2023. (RE: RELATED DOCUMENT(S): 258 APPLICATION
FOR ADMINISTRATIVE EXPENSES; #278 CONTINUED AMENDED ORDER
TO SHOW CAUSE SIGNED ON 1/6/2023. (RE: RELATED DOCUMENTS(S):
249 ORDER SCHEDULING HEARING); #345 CONSENT MOTION TO
APPROVE COMPROMISE UNDER RULE 9019; #340 OBJECTION TO CLAIM
OF SHANNI SNYDER; AT CLAIM NUMBER 1; #337 OBJECTION TO CLAIM
OF GEORGE SNYDER; AT CLAIM NUMBER 5; #344 AMENDED
APPLICATION FOR ADMINISTRATIVE EXPENSES PURSUANT TO
11 U.S.C. 503(b) (1) AND/OR FOR PAYMENT OF ADEQUATE PROTECTION

BEFORE HONORABLE GREGORY L. TADDONIO
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: Law Office of J. Allen Roth
By: J. ALLEN ROTH, ESQ.
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For George Snyder: By: GEORGE SNYDER, PRO SE
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ECRO: Hayley Smith

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APPEARANCES (Cont'd):

For Christine Biros: Bernstein-Burkley, P.C.
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For Christine Biros, The Law Firm of William E. Otto
Lead Counsel in the By: WILLIAM E. OTTO, ESQ.
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TELEPHONIC APPEARANCES:

Chapter 7 Trustee: Mahady & Mahady
By: ROBERT H. SLONE, ESQ.
223 South Maple Avenue
Greensburg, PA 15601

For Shanni Snyder: The Lynch Law Group LLC
By: JOHN PATRICK LACHER, ESQ.
501 Smith Drive, Suite 3
Cranberry Twp, PA 16066

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1 ECRO: Court may now come to order. The Honorable
2 Gregory L. Taddonio presiding.

3 THE COURT: All right. Good afternoon, everyone.
4 This is the United States Bankruptcy Court for the Western
5 District of Pennsylvania and this is the Court's docket of
6 Chapter 7 and Chapter 11 matters on this Thursday, April 13,
7 2023. The matter under consideration at this time is Case
8 Number 22-20823, U LOCK INC. I'll begin by taking appearances
9 first here in the courtroom and I'll start over here. Mr.
10 Roth?

11 MR. ROTH: Alan Roth on behalf of U LOCK.

12 THE COURT: All right, good afternoon.

13 MR. SNYDER: George Snyder.

14 THE COURT: All right, good afternoon. Want to come
15 over here?

16 MR. BERNSTEIN: Your Honor, on behalf of Christine
17 Biros, Robert Bernstein, Bernstein-Burkley.

18 THE COURT: Okay.

19 MR. BERNSTEIN: William Otto sitting next to me.

20 THE COURT: All right, good afternoon.

21 MR. BERNSTEIN: Ms. Biros is in the courtroom next to
22 him and my colleague Mark Lindsay.

23 MR. LINDSAY: Good afternoon.

24 THE COURT: All right, good afternoon, everyone. All

1 right, that satisfies the appearances here in the courtroom and
2 then I'll take appearances on the Zoom call. I'll start first
3 with the Chapter 7 Trustee.

4 MR. SLONE: Yes. Robert Slone, Chapter 7 Trustee,
5 Your Honor.

6 THE COURT: All right, good afternoon. And, I'll
7 take an appearance for Shanni Snyder?

8 MR. LACHER: Good afternoon, Your Honor. John Lacher
9 on behalf of Shanni Snyder, and Shanni Snyder is in the room
10 with me, Your Honor.

11 THE COURT: Okay, good afternoon. All right, and is
12 there anyone else who wishes to enter an appearance in this
13 case?

14 (No audible response)

15 THE COURT: All right. This is a hearing set on
16 several pending matters and I have -- the Claims Objections
17 filed by Christine Biros to the claims of George Snyder and
18 Shanni Snyder. I have an Amended Application for Payment of
19 Administrative Expenses, including Post-Petition Rent,
20 relatedly a Consent Motion to Approve Compromise under Rule
21 9019, and then two continuations of hearings related to Orders
22 to Show Cause that were issued by the Court at Docket Numbers
23 278 and 294. Unless there's any housekeeping matters that I
24 need to be aware of, I am just going forward in starting with
25 the claims objections, so any preliminary comments from the

1 in this case, particularly with respect to the schedules and
2 testimony at the 341 meeting and in other sworn declarations.
3 So, for all those reasons, I find that the objection is well-
4 founded and I will sustain the objection and deny Mr. Snyder's
5 claim.

6 So, that brings us forward to the next claim
7 objection which is the objection to Claim Number 1 filed by
8 Shanni Snyder. This was a claim filed in the amount of
9 \$263,100, originally as a secured judgment. Ms. Biros has
10 filed an objection, asserting that Shanni was not an employee
11 of U LOCK, and as is supported by Shanni's schedules, and given
12 her failure to properly schedule a wage claim, Shanni should be
13 judicially estopped from asserting one now.

14 Both George and Kash Snyder have testified
15 extensively that U LOCK had no employees and did not consider
16 Shanni Snyder to be an employee. She also notes that there is
17 no evidence that Shanni was a contractor of U LOCK and further
18 observes that Shanni does not qualify as an employee under the
19 FLSA because U LOCK was an immediately -- or an immediate
20 family-owned business. And, even if she had such a claim under
21 the FLSA, the statute of limitations is two years.

22 Biros' also asserts that the claimant Shanni worked
23 for ten hours a night, every night, for four years, is on its
24 face incredible, and given that the security setup at the site
25 did not have wifi or other connectivity, it is unclear how

1 Shanni could have monitored the cameras as alleged in her
2 claim.

3 Ms. Snyder filed a response arguing that Biros is
4 seeking to collaterally attack her judgment and she asserts
5 that judicial estoppel cannot apply because she later amended
6 her schedules and only part of the claim belonged to her
7 estate, and finally suggests that if an evidentiary hearing is
8 necessary to address the validity of the judgment, the
9 reference should be withdrawn to permit the District Court to
10 do so.

11 So, again, those are my initial observations of what
12 had been contended by each of the parties with respect to that
13 pending claim objection. Is there anything further that Ms.
14 Biros wishes to raise with respect to that claim objection?

15 MR. BERNSTEIN: Nothing further at this point, Your
16 Honor. Thank you.

17 THE COURT: All right, thank you. All right, Mr.
18 Lacher, how about on your behalf for Ms. Snyder?

19 MR. LACHER: Yes, thank you, Your Honor. Again, as
20 noted, we're dealing here with a final judgment and I would
21 also point out that Ms. Biros has commenced a RICO action in
22 the District Court, which includes the same attacks on the
23 judgment that they raise here before Your Honor. So, you have
24 them asking the District Court to pass on the facts and they
25 have Your Honor asking to pass on the facts, and based on Your

1 Honor's findings in regard to the last objection, I'd also
2 point out, they rely largely on a case issued by Judge Deller,
3 kind of stating that this Court can always get behind a
4 judgment in a claims objection situation. I don't think that
5 case says that at all. That was a case that dealt with
6 confessed judgments that, on the face of the record, were not
7 lawful, the process was not followed. In this instance, Ms.
8 Snyder filed her complaint. Went to court. Attended a hearing
9 in front of Judge Colville. Judge Colville took evidence.
10 Judge -- including testimony from Ms. Snyder. He rendered a
11 final judgment. That judgment is a year and a half old.
12 Nobody has attacked it, and I do believe this Court can't get
13 behind it, and I also believe that if it is going to be
14 challenged, it should go back to the District Court, as Your
15 Honor mentioned.

16 THE COURT: Okay. Anything in response, Mr.
17 Bernstein?

18 MR. BERNSTEIN: Nothing that we haven't already set
19 forth, Your Honor. Thank you.

20 THE COURT: All right, thank you. All right. I'll
21 address the points as follows. I do think that Shanni's
22 judgment was entered by default. It's clearly indicated as
23 such and, therefore, I reach the finding that it is not
24 entitled to preclusive effect, and in support of that, I do
25 rely on the In re Chatkin case, 465 B.R. 54, at Page 65, which

1 is a decision of the Bankruptcy Court of the Western District
2 of Pennsylvania from 2012, which provided, quote, as a general
3 rule under federal law, any issue raised in a case where a
4 default judgment was entered is not actually litigated for
5 purposes of collateral estoppel, and therefore does not bar
6 litigation of the issue in the Second Federal Court, end quote.

7 There is no exception where the defendant never
8 appeared and participated. I think Biros is correct that the
9 statute of limitations for the FLSA claim is two years, with
10 the possibility of three years for a wilful violation. It's
11 under 29 U.S.C., Section 255(a), and to the extent that Shanni
12 reopened her bankruptcy case and amended her schedules and
13 entered into a settlement with the Trustee, I do find that
14 judicial estoppel would appear to be moot and is no longer at
15 play here.

16 But, even though Shanni is the sister of Kash and
17 George, it is unclear whether adult siblings under the
18 circumstances would be considered, quote, immediate family
19 under the FLSA, and I think there are some factual issues that
20 are raised here, but nevertheless, the fact that there is a
21 judgment, does require at this point for the Court to schedule
22 an evidentiary hearing on the merits of the claim itself. And,
23 so I am prepared to do that and we'll issue a suitable pretrial
24 order. My expectation though is that this should not be a long
25 or involved process. I am contemplating an evidentiary hearing

1 of no more than two hours and I think the primary witness would
2 be Ms. Snyder herself. If there is cause to be shown that
3 there are needs for other witnesses, we can address that, but
4 I'm not envisioning that as we sit here today.

5 To the extent the parties need a discovery period,
6 I'm prepared to provide a brief 60-day discovery period for
7 that. But, in short, I'm moving forward with quantifying the
8 claims of this estate, and the only way to do so is to have an
9 evidentiary hearing on the merits of that claim objection. To
10 the extent that Ms. Snyder wants to seek a withdraw of the
11 reference, that's her prerogative. She can file an appropriate
12 motion with the District Court. The District Court can act
13 with it as it deems necessary, but my expectation would be that
14 liquidating and determining the allowance of claims is
15 something that is normally done within the Bankruptcy Court and
16 unless there's some other basis to seek a withdraw of the
17 reference, I would not be betting money that the District Court
18 would grant that.

19 But, nevertheless, I'm prepared to be surprised on
20 that, but in the meantime, I'm not going to wait for the
21 District Court to rule on that. This is an estate that needs
22 to be properly addressed, and so I will move forward with the
23 evidentiary hearing under the schedule that I've just outlined.

24 I would also note though that, and this is for Mr.
25 Lacher's benefit because he is new to the party, so to speak,

1 is that, on its face and given the circumstances of which
2 unfolded, and again mind you, I'm not making any final
3 determinations, but the veracity and validity of the Shanni
4 Snyder claim is certainly somewhat dubious. I made no mistake
5 about that and some of the things I've written in my orders
6 before, and so I want to make sure that we're all clear on what
7 the expectations are going forward, and that is the Court has
8 already put all of the parties in this room and on the Zoom
9 call on notice that I'm not tolerating any more games or
10 crossing any lines. Rule 11 is in play and, to the extent that
11 there were sworn statements given in this proceeding, penalty
12 of perjury also applies here.

13 So, as we move forward with an evidentiary hearing, I
14 want folks to be mindful of that so that we can be all clear on
15 what the expectation is and that there is no funny business or
16 games that are being played as we move forward with the goal of
17 including the administration of this estate and determining
18 what the claims are and allowing the Trustee to take what
19 limited resources he has and make distributions to creditors.
20 So with that, any questions or further clarifications that the
21 parties need at this stage?

22 MR. BERNSTEIN: No, Your Honor.

23 MR. LACHER: No, Your Honor.

24 THE COURT: So, while we're at it, I'm going to just
25 set a date. If I use 60 days from today for discovery, I have

1 the window of July 14th in the afternoon, which is a Friday,
2 for an evidentiary hearing. How does that work for the
3 parties?

4 MR. BERNSTEIN: Fine with us, Your Honor.

5 MR. LACHER: Fine with me, Your Honor.

6 THE COURT: All right. Then, I'll set that for July
7 14th at 1:30 p.m.

8 MR. OTTO: Unless you're home for Bastille Day.

9 THE COURT: All right. That brings us forward to the
10 next pending item, which I will take as the consent motion to
11 approve the compromise under Rule 9019 and this is somewhat
12 related to the amended application for administrative expenses
13 that was filed by Christine Biros, which has drawn an objection
14 from George Snyder. The motion to compromise has drawn
15 objections from both George Snyder and Shanni Snyder and a
16 consent response from the Chapter 7 Trustee.

17 Okay. So, again, where I view the papers at this
18 stage is as follows. Christine Biros and the Trustee have
19 entered into a settlement of her claims. The settlement would
20 provide for an allowance of an administrative expense claim of
21 \$18,000 for use and occupancy of the subject property during
22 the pendency of the bankruptcy. That equates to \$2,000 a month
23 for a period of nine months. It would also allow amended Claim
24 Number 2 in the amount of \$27,701.59 as a priority claim under
25 Section 507(a)(8) for pre and post-petition real estate taxes